

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF WASHINGTON AT SEATTLE

GREGORY L. HITCHCOCK,

Plaintiff,

v.

BERING STAR, LLC,

Defendant.

AT LAW AND IN ADMIRALTY

Case No.:

**COMPLAINT FOR MARITIME
PERSONAL INJURIES**

JURY DEMAND

Plaintiff Gregory L. Hitchcock (“Plaintiff” or “Mr. Hitchcock”), by and through the undersigned counsel, alleges as follows:

GENERAL ALLEGATIONS

1. Plaintiff brings this action pursuant to the provisions of 28 U.S.C. § 1916 without prepayment of fees and costs and without deposit of security therefor.

2. At all times material hereto, Mr. Hitchcock was a resident of Whatcom County, Washington.

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1 3. At all times material hereto, defendant Bering Star, LLC (“Defendant”),
2 was and is a Washington limited liability company doing business in Washington with its
3 principal place of business located at 5470 Shilshole Avenue NW, Suite 520, Seattle,
4 Washington.
5

6 4. At all times material hereto, the F/V BERING STAR (O.N. 593310)
7 (“BERING STAR” or the “vessel”) was and is an American flag fishing vessel operating
8 upon the navigable waters of the United States, the high seas, and the territorial waters of
9 Washington and Alaska.
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11 5. At all times material hereto, Bering Star, LLC, owned the BERING STAR.
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13 6. At all times material hereto, defendant Bering Star, LLC, manned,
14 operated, maintained and controlled the BERING STAR.
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16 7. At all times material hereto, Plaintiff was under the employ of Defendant,
17 performing maritime employment on the BERING STAR.
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19 8. Defendant employed Plaintiff to serve aboard the BERING STAR from
20 2015 through 2020. During those years, Plaintiff worked aboard the BERING STAR
21 when it tendered in Prince William Sound, Alaska, for the summer salmon season.
22 Plaintiff also served aboard the vessel when undergoing shipyard work in Seattle,
23 Washington, every other spring before the vessel headed to Alaska to tender.
24

25 9. On or about May 31, 2020, Plaintiff was working aboard the vessel while
26 docked on the navigable waters of Salmon Bay in Seattle. On that date, the vessel’s
27 captain dropped an approximately four hundred pound oil drum, which was improperly
28

1 rigged to the vessel's crane, onto Mr. Hitchcock, crushing his neck and back like an
2 accordion.

3
4 **FIRST CLAIM:**
5 **JONES ACT NEGLIGENCE**

6 10. Plaintiff realleges and incorporates herein by reference paragraphs 1
7 through 9 set forth above.

8 11. This claim arises under 46 U.S.C. § 30104, commonly known as the Jones
9 Act. Jurisdiction is conferred upon this Court by the provisions of that statute. Under the
10 Jones Act, Defendant owed Plaintiff a high duty of care.

11 12. At all times material, Defendant employed Plaintiff to serve as a member of
12 the crew, deckhand and cook, in the service of the BERING STAR on the navigable
13 waters of the United States.

14 13. On or about May 31, 2020, while Plaintiff was engaged in the course of his
15 duties as a seaman in the service of the BERING STAR, Defendant was negligent, as
16 were its officers, agents, employees and all persons acting on its behalf, among other
17 things, in:
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- 21 a. Causing, allowing, and permitting the said vessel and her
22 appurtenances to be operated in such a manner as to unreasonably
23 endanger Plaintiff's safety;
- 24 b. Causing, allowing, and permitting the vessel and her
25 appurtenances to be in a dangerous, defective and hazardous
26 condition;
- 27 c. Failing to warn Plaintiff of impending dangers;
- 28

- d. Failing to provide a seaworthy vessel and a safe method of operation;
- e. Failing to provide Plaintiff with a safe place in which to work;
- f. Failing to promulgate and enforce proper and safe rules of seamanship in the supervision and conduct of the work;
- g. Failing to provide sufficient and competent officers and co-employees;
- h. Failing to supply proper gear and equipment, including rigging, and to maintain the same in proper order;
- i. Violating safety regulations, including, but not limited to, the following: 29 C.F.R. § 1926.1437, 29 C.F.R. § 1917.45, 29 C.F.R. § 1915.115, 29 C.F.R. § 1915.112, and 29 C.F.R. § 1915.113.
- j. Otherwise acting so negligently as to cause injury to Plaintiff as set forth above in Paragraph 9.

14. As a result of said conduct, Plaintiff was hurt and injured in his health, strength, and activity, sustaining injuries to, *inter alia*, his neck and back, all of which said injuries have caused and continue to cause Plaintiff great mental, physical and nervous pain and suffering, and said injuries have resulted in significant permanent disability to Plaintiff, all to his general damage according to proof.

15. As a further result of said conduct, Plaintiff was required to and did employ physicians and other health care providers for medical examination, care and treatment of said injuries, and Plaintiff alleges that he may require such services in the future. The cost and reasonable value of the health care services received and to be received by

1 Plaintiff is presently unknown to him, and Plaintiff prays for leave to insert the elements
2 of damages in this respect when the same are finally determined.

3
4 16. As a further result of said conduct, Plaintiff has suffered and will continue
5 in the future to suffer loss of income in a presently unascertained sum, and Plaintiff prays
6 for leave to insert the elements of damage in this respect when the same are finally
7 determined.
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9 **SECOND CLAIM:**
10 **UNSEAWORTHINESS**

11 17. Plaintiff realleges and incorporates herein by reference paragraphs 1
12 through 16 set forth above.

13 18. On or about May 31, 2020, while Plaintiff was engaged in the course of his
14 duties as a deckhand in the service of the **BERING STAR**, the said vessel was
15 unseaworthy in that, among other things:
16

- 17 a. Said vessel and her appurtenances were being operated in such a
18 manner as to unreasonably endanger Plaintiff's safety;
19
20 b. Said vessel and her appurtenances were in a dangerous, defective
21 and hazardous condition;
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23 c. The place where Plaintiff was required to work was unsafe;
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25 d. Sufficient and competent officers and co-employees were lacking;
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27 e. Sufficient gear and equipment, including rigging, in proper working
28 order were lacking;
f. Work in progress was being conducted by unsafe methods without
sufficient and properly trained personnel and without adequate
supervision;

g. Workplace safety regulations pertaining to the vessel's crane and rigging were violated, including, but not limited to, the following: 29 C.F.R. § 1926.1437, 29 C.F.R. § 1917.45, 29 C.F.R. § 1915.115, 29 C.F.R. § 1915.112, and 29 C.F.R. § 1915.113.

h. The said vessel was otherwise so unseaworthy as to cause injury to Plaintiff as set forth above in Paragraph 9.

THIRD CLAIM:
MAINTENANCE AND CURE

19. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 18 set forth above.

20. Upon Plaintiff becoming injured and disabled as aforesaid, it became the duty of Defendant to apprise Plaintiff of his right to seamen's benefits and to pay to Plaintiff the expenses of his maintenance and cure, as well as his wages to the end of the contemplated period of employment, but Defendant unreasonably, willfully, wantonly, and recklessly neglected to do so, despite knowledge of Plaintiff's continuing disability and Plaintiff's medical providers' recommendations regarding same.

21. By reason of the premises, Plaintiff has been damaged in sums according to proof for past and future maintenance and cure, and unearned wages, the precise amounts of which are presently unascertained, and Plaintiff prays leave to insert the elements of damages in this respect when the same are finally determined.

22. By reason of said unreasonable, wanton and willful disregard of Plaintiff's right to maintenance and cure, Plaintiff was forced to engage the services of counsel and

1 has incurred and will continue to incur attorneys' fees and expenses for which Plaintiff is
2 entitled to recover.

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4 **FOURTH CLAIM:**
5 **§905(b) VESSEL NEGLIGENCE**

6 23. Plaintiff realleges and incorporates herein by reference paragraphs 1
7 through 9 set forth above.

8 24. This alternative cause of action arises under 33 U.S.C. § 905(b), under
9 which Defendant owed Plaintiff a duty of reasonable care. Jurisdiction for this claim is
10 conferred to this District Court pursuant to 28 U.S.C. § 1333 in that the maritime tort
11 occurred on the navigable waters of the United States and bore a significant relationship
12 to traditional maritime activity. Plaintiff, however, does not make the Federal Rule Civil
13 Procedure 9(h) designation for any of the claims asserted herein.
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16 25. On or about May 31, 2020, while Plaintiff was engaged in the course of his
17 duties aboard the BERING STAR, Defendant was negligent in its capacity as vessel
18 owner, among other things, in:
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- 20 a. Failing to turn over the vessel, including its equipment and
21 appurtenances, in a reasonably safe condition;
- 22 b. Failing to mitigate a hazard Defendant knew or should have known
23 Plaintiff was likely to confront in his work and endeavor to work
24 through;
- 25 c. Failing to intervene for the protection of Plaintiff despite the
26 Defendant's knowledge that the operation posed an unreasonable
27 risk of harm to Plaintiff and despite Defendant's knowledge that
28 adequate measures were not being taken to protect Plaintiff from the
hazard Defendant helped to create;

d. Failing to exercise due care for Plaintiff as set forth in paragraph 13 above, despite Defendant's active control of the vessel.

e. Failing to exercise due care for Plaintiff as set forth in paragraph 13 above, despite Defendant's active involvement in the vessel's operations.

26. As a result of said conduct, Plaintiff was hurt and injured in his health, strength, and activity, sustaining injuries to, *inter alia*, his neck and back, all of which said injuries have caused and continue to cause Plaintiff great mental, physical and nervous pain and suffering, and said injuries have resulted in significant permanent disability to Plaintiff, all to his general damage according to proof.

27. As a further result of said conduct, Plaintiff was required to and did employ physicians and other health care providers for medical examination, care and treatment of said injuries, and Plaintiff alleges that he may require such services in the future. The cost and reasonable value of the health care services received and to be received by Plaintiff is presently unknown to him, and Plaintiff prays for leave to insert the elements of damages in this respect when the same are finally determined.

28. As a further result of said conduct, Plaintiff has suffered and will continue in the future to suffer loss of income in a presently unascertained sum, and Plaintiff prays for leave to insert the elements of damage in this respect when the same are finally determined.

1 **WHEREFORE**, Plaintiff prays for judgment against defendant Bering Star, LLC,
2 as follows:

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- 4 i. With respect to Plaintiff's First Claim and Second Claim:
- 5 a. General damages according to proof;
- 6 b. All past and future expenses for health care providers according to
7 proof;
- 8 c. Loss of income, past and future, according to proof;
- 9 d. Plaintiff's costs and disbursements incurred herein;
- 10 e. Prejudgment and post-judgment interest according to general
11 maritime law; and
- 12 f. For such other and further relief as this District Court deems just and
13 fair.
- 14
- 15 ii. On Plaintiff's Third Claim:
- 16 a. Maintenance, cure and unearned wages according to proof;
- 17 b. Plaintiff's reasonable attorney's fees;
- 18 c. Plaintiff's costs and disbursements incurred herein;
- 19 d. Punitive damages according to general maritime law;
- 20 e. Prejudgment and post-judgment interest according to general
21 maritime law; and
- 22 f. For such other and further relief as this District Court deems just and
23 fair.
- 24
- 25 iii. On Plaintiff's Fourth Claim:
- 26 a. General damages according to proof;
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- 1 b. All unpaid and future expenses for health care providers according
2 to proof;
- 3 c. Loss of income, past and future, according to proof;
- 4 d. Plaintiff's costs and disbursements incurred herein;
- 5 e. Prejudgment and post-judgment interest according to general
6 maritime law; and
- 7 f. For such other and further relief as this District Court deems just and
8 fair.

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10
11 ANDERSON CAREY WILLIAMS & NEIDZWSKI

12 /s/ Douglas R. Williams

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19 Attorneys for Plaintiff

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21 **JURY DEMAND**

22 Plaintiff demands trial by jury of all issues in this cause.
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